1947.

File No. O. Partnership 47

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Legal **DEPARTMENT**

A **BRANCH**

Subject:— Opinions under the Indian Partnership Act, 1932

P 4 E

File No. O. partnership/47

Std. Sectt. Slip 24 B e.

396 - A.

C O N T E N T S.

Legal Department, File No. 0 Partnership/1947.

Sr.No.	Compilation No.	Subject.	Pages.
		Opinions under the Indian Partnership Act, 1932.	
1.	O.No.5996/9/47	Sec.58(3) and Sec.11 Question regarding registration of a business firm under the name of "Federal Matas".	1-2
2.	O.No.11486/112.47	Secs. 18 and 20 Question whether payment made to one of the partners would be valid payment to the firm.	3-6

16-5-56

Office of the R.L.A.

The word "Federal" may not be expressly included in section 58(3) of the Indian Partnership Act. But the section prohibits the use of all words which express or imply the sanction, approval or patronage of the Crown or the Central or Provincial Government. That the word "Federal" does imply such sanction, approval or patronage is proved by the inclusion of that word in section 11 of the Companies Act, even though the Central Government of India is not a Federal Government at present. The reason why the word was specifically added in section 11 of the Companies Act was that the general expression following the list of prohibited words may not have covered the word "Federal"; whereas the corresponding general expression in section 58(3) of the Partnership Act is quite adequate to cover the word "Federal"; for that reason the word need not have been added to the list of prohibited words in that enactment. Moreover, once the use of this word is permitted, the firm cannot subsequently be made to alter its name x if the future Government of India takes the shape of a Federal Government. It is true, as contended by the firm, that registration of a firm is not compulsory and that an unregistered firm can carry on business in any way, but if registration is desired, the requirements of section 58 must be complied with. The view taken by the Registrar of ~~Firms~~ Firms is correct.

Sd/- R.

Remembrancer of Legal Affairs.

U.R. to H.D. No.5996 dated the 9th June 1947.

Phone: 39681

No.1053 4 ST5Q
HQ BOMBAY AREA
COLABA BOMBAY 5
11 OCT 47

The Remembrancer of Legal Affairs,
Bombay Castle, Bombay.

Sub: PAYMENT FOR SUPPLIES RECEIVED UNDER INFORMAL AGREEMENT WITH MESSRS AKTARUDDIN IMAM KHAN OF HYDERABAD.

An informal agreement was concluded with Messrs AKTARUDDIN IMAM KHAN of Hyderabad for the supply of eggs at Poona during the period 15 Aug. 46 to 30 Sep. 46 and copies of the informal agreement were issued to the Officer Commanding, Supply Depot, POONA, the Controller of Military Accounts and the contractors. The agreement form was signed by Mr. AKHTARUDDIN and Mr. IMAM KHAN as partners of the firm AKHTARUDDIN IMAM KHAN.

2. On 6 Aug. 47, Mr. AKHTARUDDIN, one of the partners turned up at this office with the complaint that payment for the supplies received by Govt. under the Informal Agreement was irregularly made direct to Mr. IMAM KHAN, the other partner of the firm.

3. On further investigation of the complaint with the officer commanding supply Depot, Poona who was responsible for issuing the contractors a receipt for the supplies and the Controller of Military Accounts responsible for making payment it was discovered that,

(i) the supply orders were made out inadvertently in the name of "Mohamed Imam Khan"

(ii) Cheques were issued by the CMA direct to "Mohamed Imam Khan"

although both the above officers were in possession of a copy of the Informal Agreement and aware of the constitution of partnership of the firm.

4. It appears that on receipt of the cheques from the CMA, Mr. IMAM KHAN obtained payment thereon from the Bank, and apparently has not paid his partner Mr. AKHTARUDDIN his dues.

5. Copies of relevant correspondence listed below, is forwarded herewith.

Letter No.1053 78 ST5 dt. 7 Aug 47 of this HQ.
CMA SC letter No.S/V/4242 dt. 2.9.47
This HQ letter No.1053 91 ST5 dt. 19 Sep 47.
This HQ letter No.626/4/Q-1 dt. 29 Sep 47.
CMA SC letter No.S/V/4242 dt. 30.9.47
Informal Agreement in Original.

6. It is requested that your legal opinion may please be given, elucidating the Government's liability in this connection and indicating the further course of action to be taken by this H.Q in the matter.

Sd./- Maj Gen
Comdr Bombay Area

Copy to :-
RRIASC SC Poona - ref his No.10315 ST6B dt. 26 Sep 47.

No.11486
Office of the Remembrancer of
Legal Affairs,
Bombay Castle, 1st Dec. 1947.

To

Major General,
Commander, Bombay Area,
Colaba, Bombay 5.

Sub: Payment for supplies received under informal agreement with Messrs. Akhtaruddin Imam Khan of Hyderabad.

Sir,

With reference to your letter No.1053, 4, S.T.SQ, dated the 11th October 1947 on the above subject requesting my advice in the matter I have the honour to state that if Messrs Aktaruddin and Imam Khan constituted a firm, payment made to one of the partners namely Imam Khan would be a valid payment to the firm under sections 18 and 20 of the Indian Partnership Act, 1932 and the other partner can have no claim against Government.

2. The papers of the case are returned herewith.

Your obedient servant,

Sd/-
Remembrancer of Legal Affairs.